

## Nuclear Regulatory Commission

## § 4.13

(6) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in § 4.13).

(b) A recipient in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their sex, race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular sex, race, color, or national origin.

(c) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this subpart applies, on the grounds of sex, race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this subpart.

(d) As used in this section the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(e) The enumeration of specific forms of prohibited discrimination in this section and § 4.13 does not limit the generality of the prohibition in § 4.11.

(f) This subpart does not prohibit the consideration of sex, race, color, or national origin if the purpose and effect

are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of sex, race, color or national origin. Where previous discriminatory practice or usage tends, on the grounds of sex, race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this subpart applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

[29 FR 19277, Dec. 31, 1964, as amended at 38 FR 17927, July 5, 1973; 40 FR 8778 Mar. 3, 1975; 68 FR 51344, Aug. 26, 2003]

### § 4.13 Employment practices.

(a) Where a primary objective of the Federal financial assistance to a program to which this subpart applies is to provide employment, a recipient may not, directly or through contractual or other arrangements, subject an individual to discrimination on the ground of sex, race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation, and use of facilities), including programs where a primary objective of the Federal financial assistance to a program is (1) to assist such individuals through employment to meet expenses incident to the commencement or continuation of their education or training, or (2) to provide work experience which contributes to the education or training of such individuals. (Examples of such Federal financial assistance are nuclear training equipment grants, grants and loans of materials for training, and fellowships.) The requirements applicable to construction employment under any such program shall be those specified in or pursuant to part III of Executive Order 11246 or any Executive order which supersedes it.

(b) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of sex, race, color, or national origin in the employment practices of the recipient or other persons subject to this subpart tends, on the grounds of sex, race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this subpart applies, the provisions of paragraph (a) of this section shall apply to the employment practices of the recipient or other persons subject to this subpart to the extent necessary to assure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

[38 FR 17927, July 5, 1973, as amended at 40 FR 8778, Mar. 3, 1975; 68 FR 51344, Aug. 26, 2003]

#### §4.14 Medical emergencies.

A recipient shall not be deemed to have failed to comply with §4.11 if immediate provision of a service or other benefit to an individual is necessary to prevent his death or serious impairment of his health, and such service or other benefit cannot be provided except by or through a medical institution which refuses or fails to comply with §4.11.

#### ASSURANCES REQUIRED

#### §4.21 General requirements.

(a) Every grant, loan or contract to which this subpart applies, except an application to which §4.22 applies, shall, as a condition to its approval by NRC, or by the appropriate NRC contractor or subcontractor, and the extension of any Federal financial assistance pursuant thereto, contain or be accompanied by an assurance that the program will be conducted in compliance with all requirements imposed by or pursuant to this subpart. In the case of a grant, loan, or contract involving Federal financial assistance to provide real property or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for a purpose for

which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits. In the case of personal property the assurance shall obligate the recipient for the period during which he retains ownership or possession of the property. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the grant, loan or contract. The Commission will specify the form of the foregoing assurances and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, successors in interest, and other participants. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(b) In the case of real property, structures or improvements thereon, or interests therein, which was acquired with Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved with Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by the NRC to revert title to the property in the event of a breach of the covenant where, in the discretion of the NRC, such a condition and right of reverter is appropriate to the program and to the nature of the grant and the grantee. In such event if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction